

The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

**Title: WATER RATE REDUCTION INITIATIVE**

**Summary by City Attorney:** In 1989 chemicals known as perchlorethylene (PCE) and trichloroethylene (TCE) were found in the groundwater that the City uses to supply its water customers. These chemicals were used by Lodi businesses. Both chemicals have been found by the state and federal health regulators to be hazardous to human health.

The City filed a lawsuit against those responsible for using the chemicals, and was in turn sued by those parties, who claim the City is responsible based on releases of chemicals from the sewers. Although the City has obtained some settlements, the Court found the City to be potentially responsible for some of the cleanup, and state regulators have ordered the City to investigate and clean up the chemicals. The City estimates that its ultimate cost for the cleanup including capital, operating, legal and regulatory oversight expenses, and repayment of past funds advanced by the water fund will be \$45.7 million.

On September 21, 2005, the Lodi City Council adopted Resolution No. 2005-203 entitled "A resolution of the Lodi City Council establishing water rates," raising water rates to pay for the cleanup.

This initiative would repeal Resolution No. 2005-203, repeal the Levy of Charges imposed pursuant to that resolution, and require that all funds collected under the authority of that resolution be refunded to rate payers in a reasonable and prompt time frame. The Initiative states that it would become effective upon the date that it is approved (which California law defines to be 10 days after the results of the election on the measure are declared) and that it can only be repealed by a majority vote of Lodi's voters.

The initiative would not eliminate the City's legal duty to fund its portion of the cleanup, but would require the City to find another means to do so.

**Text of Measure:**

**An Ordinance brought by the people of the City of Lodi repealing Resolution No. 2005-203 of the Lodi City Council "A Resolution of the Lodi City Council establishing water rates" in response to the water utility taxation imposed upon the people.**

Whereas regarding purpose.

Whereas the City of Lodi has a legal responsibility to promote the public health, safety, and trust of the residents of the city of Lodi and

Whereas the City of Lodi has instituted significant increases in water rates without sufficient public input for the purpose of cleaning up water contamination, the residents of the City of Lodi request the following ordinance to be placed on the next General Election ballot.

**SECTION 1:** The resolution No. 2005-203 of the Lodi City Council "A resolution of the Lodi City Council establishing water rates" shall be repealed.

**SECTION 2:** That the Levy of Charges imposed pursuant to section 13.08.010 of the Lodi Municipal Code shall be repealed.

**SECTION 3:** That after the date that this ordinance is approved by the voters, all funds collected under the authority of Resolution No. 2005-203 of the Lodi City Council shall be refunded to the rate payers of the City of Lodi in a reasonable and prompt time frame.

**SECTION 4:** This ordinance can only be repealed by a majority vote by the voters of the City of Lodi on a General Election ballot.

**SECTION 5:** This ordinance is effective the day approved by the voters of the City of Lodi.

**Notice of Intent to Circulate Petition**

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Lodi, California, for the purpose of an ordinance brought by the people to Repeal Resolution No. 2005-203 of the Lodi City Council "A Resolution of the Lodi City Council establishing water rates".

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

1. The City of Lodi provides water supply to its citizens.
2. The Municipal Code legally allows the City to charge customers of this utility a charge to fund the reasonable on-going operation and maintenance of the water supply.
3. In accordance with an obligation imposed upon the City by The Central Valley Water Resources Control Board, the City Council and City officials have contended that the chlorinated solvents perchlorethylene (PCE) and trichloroethylene (TCE) were discovered in its groundwater in 1989, both of which are identified as hazardous to human health by state and federal regulators. This issue is still unresolved and is a controversy to the people whom this greatly affects, the Citizens of Lodi.
4. City officials then began a failed and costly "program" to attempt to identify the "responsible parties" and secure recoveries to fund remediation. It was eventually established that the Council and City officials themselves were in turn equally responsible for the contamination. This resulted in failure to secure recoveries to fund remediation and also incited costly legal action against the City itself.
5. The Council against popular public opinion and numerous citizens complaints, ultimately entered into a number of inequitable and highly questionable settlements which were (A) unreasonably favorable to the Third parties responsible and (B) by nature in opposition to the common good and general financial welfare of the citizens of Lodi.
6. City officials contend that the net cost for these activities were borne by the water fund until fiscal year 2004-05, in which approximately half was also advanced from the waste water fund. While City officials claim that the total and final cost of remediation including past costs and net of settlements with third parties is not precisely known, it has been estimated by staff and consultants at \$45.7 million.
7. The Council and City officials accepted the recommendation of the City Public Works director who recommended increases to the current water rates to pay for the estimated \$45.7 million short fall.
8. The Council then directed that notice of a hearing thereon be given to the property owners in the City of Lodi pursuant to government code section 54354.5. This however excluded water rate paying non-property owners from the legal political process by only allowing a small portion of the citizenry the right to protest. It is the People's position that to exclude non-property owner rate payers from this process is unconscionable and unethical.
9. On September 21, 2005, the Council conducted a public hearing at which time the Council heard objections and protests to the proposed increased rates; written protest against the proposed increased rates were also presented by 3,795 concerned citizens of Lodi.
10. It is thereby the position of the concerned Citizens of Lodi that the perchlorethylene (PCE) and trichloroethylene (TCE) groundwater crisis is still unresolved. It is also the People's position that this crisis has been and remains to be compounded by errors of fiscal and municipal management by the City Council and City officials. Resolution No. 2005-203 is simply unfair. All registered voters who live in the City of Lodi should be allowed to vote on this water rate increase.

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